

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chairman Ron Stoker, on February 12, 2009 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Ron Stoker, Chairman (R)
Rep. Deborah Kottel, Vice Chairman (D)
Rep. Ken Peterson, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Gerald Bennett (R)
Rep. Anders Blewett (D)
Rep. Robyn Driscoll (D)
Rep. Bob Ebinger (D)
Rep. David Howard (R)
Rep. Krayton Kerns (R)
Rep. Margaret MacDonald (D)
Rep. Mike Menahan (D)
Rep. Michael More (R)
Rep. Keith Regier (R)
Rep. Diane Sands (D)
Rep. Bob Wagner (R)
Rep. Wendy Warburton (R)

Members Excused: Rep. Edith (Edie) McClafferty (D)

Members Absent: None

Staff Present: Jennifer Eck, Committee Secretary
David Niss, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 227, 2/6/2009; HB 489, 2/6/2009;
HB 427, 2/6/2009; HJ 14, 2/6/2009

Executive Action: HB 303, HB 339, HB 235, HB 376,
HB 342, HB 403, HB 288, HB 246

EXECUTIVE ACTION ON HB 303

00:02:07 **Motion:** Rep. Kottel moved that **HB 303 DO PASS.**

00:04:41 Rep. Sands

00:05:15 Rep. Kottel

00:05:39 Chairman Stoker

00:05:49 **Substitute Motion:** Rep. Kottel made a substitute motion that **HB 303 BE TABLED.**

00:05:56 Rep. Peterson called the question.

00:06:03 **Vote:** Motion that **HB 303 BE TABLED** carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 339

00:06:16 **Motion:** Rep. Kottel moved that **HB 339 BE TABLED.**

00:06:59 Chairman Stoker

00:07:04 Rep. Sands called the question.

00:07:09 **Vote:** Motion that **HB 339 BE TABLED** carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 235

00:07:29 **Motion:** Rep. Kottel moved that **HB 235 DO PASS.**

00:07:38 Chairman Stoker

00:07:51 Rep. Kottel

EXHIBIT(juh33a01)

00:08:11 **Motion:** Rep. Kottel moved that **HB 235 BE AMENDED.**

Discussion:

00:08:16 Chairman Stoker

00:08:27 Rep. Kottel

00:08:53 Chairman Stoker

00:09:02 Rep. Kerns called the question.

00:09:08 Chairman Stoker

00:09:14 **Vote:** Motion that **HB 235 BE AMENDED** carried unanimously by voice vote. Rep. McClafferty voted by proxy.

00:09:27 **Motion:** Rep. Kottel moved that **HB 235 DO PASS AS AMENDED.**

Discussion:

00:09:35 Chairman Stoker
00:09:37 Rep. Kottel
00:10:31 Chairman Stoker
00:10:34 Rep. Sands
00:10:44 Rep. Peterson
00:11:43 Chairman Stoker
00:11:53 Rep. Kerns
00:11:59 Rep. Peterson
00:12:13 Rep. Menahan
00:13:11 Chairman Stoker
00:13:19 Rep. Wagner
00:13:55 Rep. Kottel
00:15:16 Rep. Wagner
00:16:22 Rep. Kottel
00:16:28 Rep. Peterson called the question.
00:16:32 Rep. Kottel
00:18:14 Chairman Stoker

00:19:13 **Vote:** Motion that **HB 235 DO PASS** carried 14-4 by roll call vote with Rep. Peterson, Rep. Howard, Rep. Warburton, and Rep. Stoker voting no. Rep. McClafferty voted by proxy.

00:19:20 Chairman Stoker

EXECUTIVE ACTION ON HB 376

00:19:50 **Motion:** Rep. Peterson moved that **HB 376 DO PASS.**

Discussion:

00:20:00 Chairman Stoker
00:20:20 Mr. Niss
00:20:25 Chairman Stoker
00:20:41 Rep. Kottel

00:21:20 **Substitute Motion/Vote:** Rep. Peterson made a substitute motion that **HB 376 BE TABLED.** Substitute motion carried unanimously by voice vote. Rep. McClafferty voted by proxy.

EXECUTIVE ACTION ON HB 342

00:21:41 **Motion:** Rep. Peterson moved that **HB 342 DO PASS.**

00:21:50 Chairman Stoker

00:22:11 **Motion:** Rep. Kottel moved that **HB 342 BE AMENDED.**
EXHIBIT(juh33a02)

Discussion:

00:22:37 Chairman Stoker
00:22:44 Rep. Kottel
00:24:26 Chairman Stoker
00:24:33 Mr. Niss
00:25:06 Chairman Stoker
00:25:19 Mr. Niss
00:25:51 Rep. Menahan
00:26:38 Rep. Peterson called the question.
00:26:43 Chairman Stoker

00:26:47 **Vote:** Motion that **HB 342 BE AMENDED** failed 2-16 by voice vote with Rep. Kottel and Rep. Peterson voting aye.

Discussion:

00:27:20 Rep. Peterson
00:27:26 Chairman Stoker
00:27:28 Rep. Peterson
00:28:05 Rep. Kerns
00:28:57 Chairman Stoker
00:29:07 Rep. Peterson
00:29:15 Rep. McClafferty joined meeting.
00:29:33 Rep. Peterson called question.
00:29:37 Chairman Stoker

00:29:39 **Vote:** Motion that **HB 342 DO PASS** failed 5-13 by roll call vote with Rep. Kerns, Rep. Bennett, Rep. Regier, Rep. Howard, and Rep. Menahan voting aye.

00:30:39 Chairman Stoker
00:32:00 Recess
00:40:16 Reconvene

HEARING ON HB 227

Opening Statement by Sponsor:

00:41:08 Rep. Walter McNutt (R), HD 37, opened the hearing on HB 227, Offset of personal consumption expenses in survival actions.

00:41:42 Chairman Stoker

Proponents' Testimony:

00:42:07 Larry Riley, Garlington, Lohn & Robinson Law Firm
00:46:35 Pat Melby, Montana Medical Association
00:47:33 Aimee Grmoljez, Billings Clinic, Yellowstone Insurance
Exchange
00:48:47 Mike Foster, Catholic Hospitals of Montana
00:49:55 John Flink, Montana Hospital Association
00:50:49 Mona Jamison, The Doctors Company
00:52:57 Mr. Foster

[EXHIBIT\(juh33a03\)](#)

Opponents' Testimony:

00:53:47 John Amsden
[EXHIBIT\(juh33a04\)](#)
00:59:43 Chairman Stoker
01:00:01 Tom Beers
01:04:45 Al Smith, Montana Trial Lawyers Association
[EXHIBIT\(juh33a05\)](#)
[EXHIBIT\(juh33a06\)](#)
[EXHIBIT\(juh33a07\)](#)
[EXHIBIT\(juh33a08\)](#)
01:09:47 Chairman Stoker

Informational Testimony: None

Questions from Committee Members and Responses:

01:10:06 Rep. Sands
01:10:35 Mr. Riley
01:10:49 Rep. Sands
01:10:55 Chairman Stoker
01:11:01 Rep. Warburton
01:11:08 Mr. Melby
01:11:12 Rep. Warburton
01:11:34 Mr. Melby
01:11:55 Rep. Wagner
01:12:47 Mr. Riley
01:13:37 Rep. Wagner
01:14:05 Mr. Riley
01:14:21 Chairman Stoker
01:14:26 Rep. Peterson
01:14:41 Mr. Riley
01:14:44 Rep. Peterson
01:14:52 Mr. Riley
01:14:54 Rep. Peterson

01:15:06 Mr. Riley
 01:15:12 Rep. Peterson
 01:15:24 Mr. Riley
 01:15:27 Rep. Peterson
 01:15:38 Mr. Riley
 01:15:57 Rep. Peterson
 01:16:21 Mr. Riley
 01:16:46 Rep. Peterson
 01:16:50 Rep. Blewett
 01:17:05 Mr. Amsden
 01:17:07 Rep. Blewett
 01:17:39 Chairman Stoker
 01:17:40 Rep. Blewett
 01:18:14 Mr. Amsden
 01:19:34 Rep. Blewett
 01:19:57 Mr. Amsden
 01:20:02 Chairman Stoker
 01:20:08 Rep. Howard
 01:20:47 Mr. Amsden
 01:21:47 Rep. Howard
 01:21:51 Chairman Stoker

Closing by Sponsor:

01:21:57 Rep. McNutt
 01:22:32 Chairman Stoker
 01:22:38 Rep. McNutt

 01:24:49 Chairman Stoker

HEARING ON HB 489

Opening Statement by Sponsor:

01:24:57 Rep. Deborah Kottel (D), HD 20, opened the hearing on
 HB 489, First time offender second chance act.

Proponents' Testimony:

01:31:05 Steve Cape, President, Opening Doors
 01:38:37 Chairman Stoker
 01:38:47 Gary Marbut, Montana Shooting Sports Association
 01:39:46 Chairman Stoker
 01:40:01 Jerry McKinney, Opening Doors
 01:42:57 Jill Cape, Opening Doors
 01:45:22 Chairman Stoker

Opponents' Testimony:

01:45:37 Marty Lambert, Gallatin County Attorney
01:56:57 Kelsen Young, Montana Coalition Against Domestic and
Sexual Violence
02:00:30 Chairman Stoker
02:00:45 Craig Thomas, Executive Director, Montana Board of
Pardons and Parole
02:03:31 Chairman Stoker
02:03:33 Mr. Thomas
02:05:44 Chairman Stoker
02:05:53 Ron Alsbury, Department of Corrections
[EXHIBIT \(juh33a09\)](#)
02:07:47 Chairman Stoker

Informational Testimony: None

Questions from Committee Members and Responses:

02:08:12 Rep. Menahan
02:09:16 Mr. Lambert
02:09:18 Rep. Menahan
02:09:46 Mr. Lambert
02:10:07 Rep. Menahan
02:10:37 Mr. Lambert
02:10:59 Rep. Menahan
02:12:24 Mr. Lambert
02:12:45 Rep. Howard
02:13:29 Mr. Lambert
02:14:17 Rep. Warburton
02:14:19 Chairman Stoker
02:14:27 Rep. Warburton
02:15:10 Rep. Kottel
02:15:25 Rep. Peterson
02:15:41 Mr. Thomas
02:15:50 Rep. Peterson
02:16:12 Mr. Thomas
02:17:22 Rep. Peterson
02:17:44 Mr. Thomas
02:19:32 Chairman Stoker

Closing by Sponsor:

02:19:40 Rep. Kottel

02:22:55 Chairman Stoker
02:23:20 Recess
02:41:43 Reconvene
02:41:44 Chairman Stoker

HEARING ON HB 427

Opening Statement by Sponsor:

02:42:15 Rep. Joel Boniek (R), HD 61, opened the hearing on
HB 427, Eliminate prohibition of sound reduction
devices for firearms in the field.

EXHIBIT(juh33a10)

02:43:47 Chairman Stoker

Proponents' Testimony:

02:43:51 Gary Marbut, Montana Shooting Sports Association
02:50:31 Chairman Stoker
02:50:35 Rick LePage
03:01:34 Chairman Stoker
03:01:38 Mr. LePage
03:04:49 Chairman Stoker
03:04:58 Doug Nulle
03:05:47 Chairman Stoker

Opponents' Testimony:

03:06:23 Jim Kropp, Chief of Law Enforcement, Department of
Fish, Wildlife and Parks (FWP)

EXHIBIT(juh33a11)

EXHIBIT(juh33a12)

03:13:29 Chairman Stoker
03:13:40 Jeff Darr, Game Warden, FWP

EXHIBIT(juh33a13)

03:19:49 Chairman Stoker
03:20:15 George Golie, Montana Wildlife Federation
03:23:21 Chairman Stoker
03:23:27 Jean Johnson, Montana Outfitters and Guides
Association, Montana Game Wardens Association
03:25:04 Chairman Stoker

Informational Testimony: None

Questions from Committee Members and Responses:

03:25:25 Rep. Howard
03:25:45 Mr. Darr
03:25:52 Rep. Howard
03:26:07 Mr. Darr
03:26:21 Rep. Howard
03:26:41 Mr. Darr
03:27:37 Rep. Howard

03:27:41 Rep. Wagner
03:28:14 Mr. Darr
03:28:52 Rep. Wagner
03:29:19 Mr. Kropp
03:29:35 Rep. Wagner
03:30:09 Mr. Kropp
03:30:41 Chairman Stoker
03:30:54 Rep. Warburton
03:31:22 Mr. Kropp
03:32:04 Rep. Warburton
03:32:20 Mr. Marbut
03:32:37 Rep. Warburton
03:33:07 Mr. Marbut
03:33:33 Chairman Stoker

Closing by Sponsor:

03:33:50 Rep. Boniek
03:35:27 Chairman Stoker

HEARING ON HJ 14

Opening Statement by Sponsor:

03:35:59 Rep. Wendy Warburton (R), HD 34, opened the hearing on
HJ 14, Support self-defense in national parks.
03:41:19 Chairman Stoker

Proponents' Testimony:

03:41:27 Gary Marbut, Montana Shooting Sports Association
03:44:09 Doug Nulle
03:44:44 Rick LePage

Opponents' Testimony:

03:45:18 Jaimee Greer, Montana Human Rights Network
03:47:20 Chairman Stoker

Informational Testimony:

03:47:33 Ali Bovingdon, Attorney General's Office
03:52:43 Chairman Stoker

Questions from Committee Members and Responses:

03:52:53 Rep. Wagner

03:53:07 Ms. Bovington
03:53:40 Chairman Stoker
03:53:42 Rep. Regier
03:54:08 Mr. Marbut
03:54:56 Chairman Stoker

Closing by Sponsor:

03:55:07 Rep. Warburton

03:57:31 Chairman Stoker

EXECUTIVE ACTION ON HB 403

03:57:57 **Motion:** Rep. Peterson moved that **HB 403 DO PASS.**

Discussion:

03:58:09 Chairman Stoker
03:58:15 Rep. Kottel
03:59:26 Chairman Stoker
03:59:30 Rep. Peterson
03:59:53 Chairman Stoker
03:59:58 Rep. More
04:00:02 Rep. Kottel
04:00:06 Rep. More
04:00:17 Rep. Kottel
04:00:24 Chairman Stoker
04:00:47 Rep. Kottel
04:01:20 Chairman Stoker
04:01:24 Rep. More
04:01:30 Chairman Stoker
04:01:34 Rep. More
04:01:41 Chairman Stoker
04:01:52 Rep. Menahan
04:02:19 Chairman Stoker
04:02:55 Rep. Kottel
04:03:52 Chairman Stoker
04:04:02 Mr. Niss
04:06:09 Chairman Stoker
04:06:11 Rep. More
04:06:35 Rep. Blewett
04:07:10 Rep. Kottel
04:07:34 Rep. Warburton
04:08:56 Rep. Kottel
04:10:14 Chairman Stoker
04:10:28 Rep. Peterson
04:11:15 Chairman Stoker

04:11:18 **Vote:** Motion that **HB 403 DO PASS** carried 16-2 by roll call vote with Rep. Peterson and Rep. Warburton voting no.

04:12:16 Chairman Stoker

04:12:19 Mr. Niss

EXECUTIVE ACTION ON HB 288

04:12:27 **Motion:** Rep. Kerns moved that **HB 288 DO PASS.**

04:12:31 Chairman Stoker

04:12:32 **Motion:** Rep. Kerns moved that **HB 288 BE AMENDED.**
EXHIBIT(juh33a14)

Discussion:

04:12:41 Chairman Stoker

04:12:53 Rep. Kerns

04:14:23 Chairman Stoker

04:14:31 Rep. Regier

04:14:38 Rep. Kerns

04:14:42 Rep. Regier

04:14:47 Rep. Kerns

04:14:52 Rep. MacDonald

04:15:07 Chairman Stoker

04:15:11 Rep. Kottel called the question.

04:15:17 **Vote:** Motion that **HB 288 BE AMENDED** carried 13-5 by voice vote with Rep. More, Rep. Regier, Rep. Warburton, Rep. Peterson, and Rep. Wagner voting no.

04:15:48 **Motion:** Rep. Kerns moved that **HB 288 DO PASS AS AMENDED.**

Discussion:

04:15:56 Rep. Peterson

04:16:13 Rep. Kerns

04:17:03 Rep. Peterson

04:17:15 Rep. Kerns

04:17:50 Rep. Peterson called the question.

04:17:56 Chairman Stoker

04:18:04 **Vote:** Motion that **HB 288 DO PASS AS AMENDED** carried unanimously by roll call vote.

04:19:05 Chairman Stoker

EXECUTIVE ACTION ON HB 246

04:19:12 **Motion:** Rep. Regier moved to **RECONSIDER THE MOTION** on
HB 246.

Discussion:

04:19:39 Chairman Stoker
04:19:43 Rep. Regier
04:19:51 Chairman Stoker
04:20:08 Rep. Becker
04:20:28 Rep. Kottel
04:20:31 Chairman Stoker

04:20:42 **Substitute Motion:** Rep. Regier made a substitute
motion that **HB 246 DO PASS.**

04:20:54 Chairman Stoker

04:20:59 **Motion:** Rep. Regier moved that **HB 246 BE AMENDED.**
EXHIBIT(juh33a15)

Discussion:

04:21:24 Chairman Stoker
04:21:30 Rep. Regier
04:21:57 Chairman Stoker
04:22:01 Rep. Regier
04:22:26 Chairman Stoker
04:22:31 Rep. Menahan
04:24:07 Chairman Stoker
04:24:14 Rep. Regier
04:24:35 Rep. Howard
04:25:03 Chairman Stoker
04:25:08 Rep. Wagner
04:25:31 Rep. Kottel
04:26:39 Rep. Menahan
04:26:56 Rep. Peterson
04:27:34 Chairman Stoker
04:27:40 Rep. Blewett
04:28:32 Chairman Stoker
04:28:39 Rep. Peterson called the question.

04:28:46 **Vote:** Motion that **HB 246 BE AMENDED** carried 13-5 by
roll call vote with Rep. Sands, Rep. MacDonald, Rep.
Driscoll, Rep. Blewett, and Rep. Menahan voting no.

04:29:51 **Motion:** Rep. Peterson moved that **HB 246 DO PASS AS**
AMENDED.

Discussion:

04:30:03 Rep. More

04:30:44 Rep. Peterson called the question.

04:30:51 **Vote:** Motion that **HB 246 DO PASS AS AMENDED** carried
12-6 by roll call vote with Rep. Sands, Rep. MacDonald,
Rep. Driscoll, Rep. McClafferty, Rep. Blewett, and Rep.
Menahan voting no.

04:31:53 Chairman Stoker

ADJOURNMENT

04:33:03 Adjournment

Jennifer Eck, Secretary

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Additional Exhibits:

[EXHIBIT\(juh33a16\)](#)

[EXHIBIT\(juh33a17\)](#)

Additional Documents:

[EXHIBIT\(juh33aad.pdf\)](#)